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Held at the Palais des Nations, Geneva, on Thursday, 10 July 2014, at 10 a.m.

Chairperson: Ms. Jahan (Vice-Chairperson)

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The meeting was called to order at 10.05 a.m.

In the absence of the Chairperson, Ms. Jahan (Vice-Chairperson) took the Chair.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined initial and second periodic reports of Swaziland (CEDAW/C/SWZ/1-2; CEDAW/C/SWZ/Q/1-2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Swaziland took places at the Committee table.*

2. **Ms. Mabuza** (Swaziland), introducing the combined initial and second periodic reports of Swaziland (CEDAW/C/SWZ/1-2), said that various factors had delayed the report's submission, including a lack of trained personnel, insufficient statistics and the protracted legal reform process. However, the Government was committed to promoting and protecting women's rights and the Prime Minister had recently announced that gender and family issues would be prioritized in his action plan for the next five years. Consultations on the establishment of a law reform commission tasked with aligning national laws with the Constitution and international instruments were ongoing and the codification of civil and customary laws and their alignment with the Constitution were nearing completion.

3. The Convention was not generally used as a key instrument in interpreting the law but its principles had guided a number of judgements involving women's rights. Women had the right to seek redress through the civil and national courts and often availed themselves of that option. Conscious of the need to raise awareness of the Convention and its application among members of the judiciary, the authorities had developed a set of training manuals and were seeking capacity-building assistance from relevant United Nations agencies and other partners.

4. The national machinery for the advancement of women had been enhanced in early 2014 with the upgrade of the former Gender Coordination Unit to departmental status. The principle responsibility of the newly established Gender and Family Issues Department was to mainstream gender in all policy areas, building on the advances made, inter alia, in the 2013 sexual and reproductive health policy, the 2010 HIV response policy and the 2013 disability policy. The attention accorded to gender issues was starting to yield results in structured, urban communities; however, approximately 70 per cent of the population lived in unstructured, rural communities. A concerted effort to mainstream gender at all levels of government, including the Tinkhundla level, was needed and, through the Gender Consortium, a number of NGOs were working directly with the Government to advance that process.

5. The laws of Swaziland did not generally discriminate against women and discrimination was expressly prohibited in article 20 of the Constitution. Equal access to land, irrespective of gender, was guaranteed in article 211. A bill on legal aid that would facilitate access to justice for women and children was currently being considered by the Attorney General's Office. Free legal assistance was available to indigent clients through the University of Swaziland but on a very limited scale only. The United Nations-sponsored Joint Gender Programme was due to establish a Government legal aid service in 2015.

6. The national gender policy adopted in 2010 provided the main national framework for addressing stereotypes and the media's role in sustaining them. The Government and civil society were running campaigns to raise awareness of the negative consequences of stereotypes and all forms of gender-based violence were outlawed in the sexual offences and domestic violence bill currently pending royal assent. The observance of traditional

mourning customs was optional. It was an issue determined at family level that was not addressed directly in legislation, although article 28 of the Constitution stipulated that women should not be compelled to undergo or uphold customs to which they were opposed.

7. Escalating domestic violence was a major concern. Alarmingly, a survey conducted by the United Nations Children's Fund (UNICEF) had revealed that almost half of all young women were likely to be exposed to violence. Working in conjunction with NGOs, the Government was increasing the availability of shelters for victims and round-the-clock hotlines for reporting abuse were run by a number of institutions, including the Royal Swaziland Police. Marital rape was criminalized under article 151 of the bill on sexual offences and domestic violence while sexual harassment was addressed under article 48.

8. Swaziland was a source, transit and destination country for trafficking in human beings. The number of cases reported was small, but the true figure was feared to be much higher. To deal with the emerging problem, the Government had enacted an anti-trafficking law in 2009, had established an anti-trafficking secretariat within the Prime Minister's Office, a toll-free hotline and other structures and institutions, and had entered into bilateral discussions with South Africa and Mozambique. Prostitution had not been legalized in Swaziland.

9. Women stood freely for election alongside their male counterparts, although the people of Swaziland were not yet accustomed to vote for them and only one woman candidate had been successful in the 2013 elections. In application of the relevant Constitutional provisions, the King and members of parliament had subsequently appointed additional female senators, taking their total number to 10 out of a possible 30. The Government was committed to achieving the 50 per cent quota set in the South African Development Community Protocol on Gender and Development and was developing a strategy for promoting women's active participation in politics and decision-making which should have a positive impact on results in the 2018 national elections.

10. Educational policy in Swaziland was designed to open up better career opportunities for girls and young women by including science, mathematics and information technology in the core curriculum. Access to employment benefits had been greatly facilitated by the issuance of national identification cards to almost all citizens and there was no formal requirement for women to provide marriage certificates as proof of matrimony in order to access employment benefits. Women wishing to challenge relatives who deprived them of their lawful benefits could pursue their case through the Master of the High Court. However, the registration of assets, marriages and deaths remained a challenge for most of the population, with continuing implications for inheritance and landownership.

11. In consultation with relevant stakeholders, the Government was working to ensure wider compliance with the provisions of the 1980 Employment Act, which entitled women to three months of fully paid maternity leave. It was also working to reduce maternal deaths and mother-to-child HIV/AIDS transmission through wider availability of antenatal care, skilled birth attendants and facility deliveries and to make sexual and reproductive health services easily accessible through the State health system.

Articles 1 and 2

12. **Ms. Patten**, noting that the Convention's provisions did not take precedence over national laws, called for the transposition process to be prioritized and accelerated. A number of bills were taking an inordinately long time to pass through parliament, including the marriage bill, the administration of estates bill, the employment bill and the sexual offences and domestic violence bill, and several laws containing discriminatory provisions required revision or repeal. She asked what priority was being given to those processes and

what time frame was envisaged for completion. She would also like an update on progress towards the establishment of a law reform commission.

13. She would like to know more about the scope of the project to codify civil and customary laws and align them with the Constitution, and whether the State party would also be introducing amendments to the Constitution. For example, the definition of discrimination provided in article 20 needed to be expanded to include sex and marital status in the list of prohibited grounds; article 28, paragraph 3 should not give women the onus of refusing to uphold customs to which they were opposed; and the requirement established in article 28, paragraph 3 should not be "subject to the availability of resources".

14. More information about government measures to address vulnerable groups of women, such as women with disabilities and women with HIV/AIDS, would be appreciated, as well as details about the work of the Commission on Human Rights and Public Administration, established in 2009. Reports suggested that, in the absence of enabling legislation, the Commission was not functioning satisfactorily. Lastly, she asked whether the State party envisaged ratifying the Optional Protocol.

15. **Ms. Neubauer** said that the report provided insufficient information about efforts to guarantee access to justice although it acknowledged many of the obstacles. The legal framework was inappropriate and in breach of the State party's obligation to guarantee equality before the law in that, under civil law, litigation could be instituted only by a person with full legal capacity while, under marital law, married women were treated as minors for legal purposes and thus could not institute legal proceedings without their husband's support. Women's right to equal treatment in all stages of legal processes was further compromised by the high cost of litigation, which disadvantaged women more than men. She would like to know more about the efforts to introduce a free legal aid service and to facilitate access to justice for women in general. Could the delegation indicate when the obstacles might be removed?

16. **Ms. Mabuza** (Swaziland) said that the questions relating to specificities of the justice system would be referred to experts in Swaziland and answered subsequently. The slow pace of the transposition process was attributable mainly to capacity constraints; well-trained, dedicated personnel were required to understand fully the requirements of the Convention and the reporting process. However, she could assure the Committee that all relevant ministries were engaged in a concerted effort to push the outstanding bills into law. She could not provide time frames for their adoption but would refer the request to the Attorney General's Office. The sexual offences and domestic violence bill had been approved too close to the end of the last parliament's term of office for the formalities to be completed. The bill may have to be resubmitted to the new parliament but the content was not at issue; it was simply a question of timing. Once passed, the law would fill many of the gaps in the prevention and protection framework.

17. The codification exercise had been completed. The report required a few final consistency and alignment checks but would be available shortly. Amendments to the Constitution were not on the agenda at present but the Committee's concerns and suggestions would be taken into account as part of the Government's gender mainstreaming efforts.

18. With regard to vulnerable groups, a draft disability act was on the table pending alignment with the disability policy approved in 2013. The possibility of enacting legislation on gender equity and equality was under consideration. The problems affecting specific vulnerable groups were also addressed in the social development policy adopted in 2012. The Commission on Human Rights and Public Administration was operational, albeit

on a minimal scale, and reported to the Ministry of Justice. Discussions on how to improve its capacity and resources so that it was better equipped to fulfil its mandate were ongoing.

19. **Ms. Mhonta-Simelane** (Swaziland) said that she was not in a position to report on progress towards ratification of the Optional Protocol because, although the process had begun, it was at a very early stage.

20. **Ms. Mabuza** (Swaziland), acknowledging the deficiencies in access to justice, said that ensuring the availability of adequate statistics and applying the Convention's articles in the adjudication of cases were two of the main challenges. Training had been provided to the judiciary on both aspects and efforts to enhance technical expertise were continuing. At present the availability of legal aid was limited. Women in rural areas were for the most part excluded although the University of Swaziland was looking to expand the services it provided.

21. The provision of legislation governing the distribution of marital property which stipulated that married women were minors for legal purposes was due to be reviewed. Women would thenceforth be able to pursue litigation in their own right, and would also have direct access to credit.

22. **The Chairperson** asked the delegation to ensure that the additional information promised would be provided within 48 hours.

23. **Ms. Patten** asked whether the State party had considered adopting a law on gender equality that included the definition of discrimination against women contained in article 1 of the Convention, or a four-year action plan for implementing the Committee's concluding observations. She asked whether the bill on legal aid covered civil as well as criminal cases.

24. **Ms. Mhonta-Simelane** (Swaziland) said that a law on gender equality would be adopted as part of the Government's action plan for 2014–2018.

Article 3

25. **Ms. Pires** said that the mandate of the Gender and Family Issues Department, which was to coordinate gender mainstreaming activities across all sectors and ministries, was extremely broad. Noting that the Department currently had only three staff, she asked whether the State party planned to allocate more human and financial resources to it and to accord the Department the status of a ministry. She also wished to know when the standards and guidelines for mainstreaming the gender perspective in all governmental structures and sectoral programmes would be adopted. The fact that the current ministerial focal points for gender lacked seniority and were expected to perform other duties served only to reduce their effectiveness. She asked whether the State party had considered appointing more senior ministerial officials to that role. Moreover, she would like to know whether there were plans to introduce gender-sensitive budgeting into the various government ministries; whether there was a framework for monitoring and assessing the implementation of the National Gender Policy adopted in 2010; and whether there was a mechanism for collecting gender-disaggregated data.

26. **Ms. Mhonta-Simelane** (Swaziland) said that a national gender index would be developed as part of the Government's action plan for 2014–2018. The Gender and Family Issues Department had devised a framework for monitoring and assessing the implementation of the national Gender Policy. There were indeed plans to introduce gender-sensitive budgeting into the various government ministries. Consultations were being held with the ministries concerned to determine how best to achieve that aim. The aforementioned standards and guidelines would assist both ministerial focal points for gender and NGOs in mainstreaming the gender perspective in all governmental structures and sectoral programmes. Two more staff had been assigned to the Gender and Family

Issues Department for the year 2014–2015 and it was hoped that more staff would be assigned to the Department in the future.

27. **Ms. Mabuza** (Swaziland) said that a request for additional human resources to be allocated to the Department had been submitted to the Ministry of Finance. There were currently no plans to accord the Gender and Family Issues Department the status of a ministry. Ministerial focal points for gender were normally appointed on an ad hoc basis. The fact that the same ministerial official was rarely appointed twice served only to undermine the effectiveness of the focal points for gender as a whole.

28. **Ms. Pires** asked how many staff the Gender and Family Issues Department needed to function effectively; how gender-sensitive budgeting would be introduced into the various ministries; and whether the fact that the Department did not have ministerial status prevented it from influencing government policy.

29. **Ms. Mabuza** (Swaziland) said that it was important for the Ministry of Finance to have a clear understanding of what mainstreaming the gender perspective entailed and of the work that would be carried out by the additional staff requested. The fact that the high turnover of ministerial focal points for gender undermined their overall effectiveness had been put forward as an argument in favour of allocating more human and financial resources to the Department. The fact that the Department did not have ministerial status did not prevent it from influencing government policy.

Article 4

30. **Ms. Hayashi** said that the electoral quotas for women in parliament established in articles 94 and 95 of the Swazi Constitution were not applied in practice. She asked which government institution was responsible for enforcing those quotas and whether a separate piece of legislation was required to do so. The State party had an obligation to ensure the equal participation of women in decision-making bodies at all levels, regardless of the general public's attitude to female candidates. She recalled that, under the Convention, the State party was required to act without delay to eliminate discrimination against women, and to adopt temporary special measures to accelerate de facto equality between men and women in all spheres. She asked whether the Government planned to adopt legislation to introduce such measures.

31. **Ms. Mabuza** (Swaziland) said that the Government did not prevent women from participating in politics. Parliament and the Elections and Boundaries Commission, in cooperation with the Ministry of Justice, were responsible for enforcing the electoral quotas. However, article 95 of the Swazi Constitution, which provided for the election of four female members from the four regions of the country to the House of Assembly, was not currently being applied. The Government was aware of the need to adopt legislation to enforce that quota. One of the priorities under the Government's action plan for 2014–2018 was to empower women to stand for election and to change the attitude of the electorate to female candidates.

Article 5

32. **Ms. Patten** said that the national study conducted by UNICEF in 2007 had indicated extremely high levels of violence against women and girls in the State party. The poor implementation of existing legislation and a lack of coordination among sectoral actors had undermined measures to prevent and address violence against women. Moreover, a recent study had confirmed that violence against women and children with disabilities was on the rise. Noting that one of the Government's targets under its action plan for 2014–2018 was to halve the number of cases of domestic violence, she asked what measures the State party envisaged taking to achieve that target. She also wished to know when the bill on sexual

offences and domestic violence would be adopted; what the Gender and Family Issues Department was doing to expedite that process; and whether the Government planned to set up "one-stop" centres to assist the victims of gender-based violence in the other regions of the country. Did the Government plan to establish specialized courts to deal with cases involving sexual offences, and to provide comprehensive training to police officers and other individuals who worked with the victims of such offences? Had the Government considered establishing a mechanism for addressing sexual and gender-based violence? She would also like to know of the measures in place to protect women and girls with albinism from violence and abuse.

33. **Ms. Neubauer** said that the State party's existing legal framework had proved ineffective in reducing the prevalence of sexual violence against women and girls. Moreover, it did not class marital rape as a criminal offence and contained patriarchal values that condoned discriminatory practices. The State party should adopt legislation intended to protect women and girls against marital rape and sexual and domestic violence as a matter of urgency. She asked whether there were plans to review and amend the provision of criminal law that required complainants to provide corroborating evidence in cases involving sexual offences.

34. **Ms. Mabuza** (Swaziland) said that the Children's Protection and Welfare Act and the bill on sexual offences and domestic violence comprehensively addressed violence against women and children and were central to the Government achieving its target of halving the number of cases of domestic violence by 2018. Moreover, the system for reporting cases of domestic violence and sexual abuse had been improved to allow the competent authorities to act more quickly. The Gender and Family Issues Department was currently working with the Ministry of Justice to expedite the adoption of the bill on sexual offences and domestic violence. "One-stop" centres would also be set up in the other regions of the country. Two specialized children's courts had already been established. The Government planned to provide training to all individuals who worked with the victims of sexual and gender-based violence. A mechanism for addressing sexual and gender-based violence had recently been established; however, it required additional technical support and human resources. Women and girls with albinism were protected under national legislation. The Government did not condone any form of abuse against women; they were encouraged to report all acts of sexual and gender-based violence to the competent authorities. There were no plans to review or amend the provision of criminal law that required complainants to provide corroborating evidence in cases involving sexual offences.

35. **The Chairperson**, speaking in her capacity as an expert, said that it would be useful to know the number of perpetrators of acts of sexual and gender-based violence who had been prosecuted and punished in the last few years.

36. **Ms. Patten** said that the Committee had learned of a number of cases in which women and girls with albinism had been murdered and in which the penalties incurred by the perpetrators had not been proportionate to the crime. She asked what measures the State party was taking to eliminate stereotyped concepts of the role of women and to combat the negative stereotyping of women in the media and within the Government. She requested additional information on the improved system for reporting cases of domestic violence and sexual abuse. Lastly, she enquired as to the specific law under which perpetrators of acts of sexual and gender-based violence were prosecuted.

37. **Ms. Neubauer** said that a State party facing severe constraints that adversely affected its ability to address women's rights must seek international cooperation. How committed was Swaziland to addressing women's rights and to discussing women's rights under the Convention with international cooperation partners and donors, particularly violence against women?

38. **Ms. Mabuza** (Swaziland) said that there was political commitment to women's rights and that the Government raised issues concerning the rights of its citizens in its discussions with international cooperation partners. There was room for improvement and the specific requirements of the Convention on women's equality, empowerment and protection against violence should be taken into account in strategic plans and programmes.

39. Eliminating stereotypes remained a challenge, but Swaziland was working with all stakeholders to address cultural stereotypes persisting at school, at home and in public. The media was instrumental in raising awareness of violence in the community and spurring the Government into action. Greater cooperation was required to ensure that the right message about negative stereotypes was conveyed.

40. The system for reporting cases of domestic violence and sexual abuse was a new initiative, focusing on children — primarily girls — and was still a work in progress. Gender-based violence cases were currently tried under the Criminal Procedure and Evidence Act, as the adoption of the bill on sexual offences and domestic violence had been delayed.

41. **Ms. Mhonta-Simelane** (Swaziland), said that gender focal points had been established in media outlets to promote gender equality and disseminate the Convention. They had received training on gender equality and had drafted a gender and media policy under the auspices of the Ministry of Information, Communications and Technology.

42. **Ms. Mabuza** (Swaziland) said that at present there were no statistics available on perpetrators of acts of sexual and gender-based violence prosecuted and punished in recent years. However, the process of collating data would be started, in line with the requirements of the Convention. The fact that some murder cases were taking so long to go through the justice system was a cause of concern and every effort was being made to bring them to a close. As far as she knew, only one case involving a woman with albinism was pending, which was being followed up. A major challenge was that the Convention was still not being invoked and applied, and steps would be taken to remedy the situation.

43. **Ms. Patten** asked whether there would be further debates on the bill on sexual offences and domestic violence when it was resubmitted to parliament, given the new composition of the Government.

44. **Ms. Mabuza** (Swaziland) said that the debate on the bill would be reopened and some returning members of parliament were already familiar with it, which facilitated matters.

Article 6

45. **Ms. Gabr** said that Swaziland had been addressing the issue of human trafficking since 2009, but evaluating progress had been hampered by a lack of data. Would the State party consider carrying out a national study to collect data disaggregated by sex and age on trafficking victims? She enquired about cooperation with civil society on tackling trafficking and whether the repatriation of victims was voluntary. She wished to know how women were protected against customary marriages, which were often used to force women into domestic work. Did Swaziland intend to implement the Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children and, if so, was there regional and subregional cooperation within the African Union towards that goal? She asked whether officials dealing with trafficking received adequate training in identifying and supporting victims.

46. **Ms. Leinarte** noted that prostitution was criminalized in Swaziland and that prostitutes were subject to sanctions ranging from fines to imprisonment, which was contrary to the Convention. However, she commended the positive attitudes of Swazi

society, which considered women as victims of violence. She wondered whether the State party would consider adopting the Nordic model and amend its Criminal Code to criminalize clients and pimps, instead of prostitutes. What measures were in place to support women wishing to leave prostitution?

47. **Ms. Mabuza** (Swaziland) said that trafficking in persons was a serious offence and measures were in place to address and, if possible, to eliminate the scourge. The State party would take on board the recommendation to carry out research and collect disaggregated data on victims. In cooperation with civil society, victims were provided with safe homes, counselling and rehabilitation services, and their repatriation was voluntary. Customary marriages did expose women to the risk of trafficking and exploitation; to protect them, the law had set the legal age of marriage at 18 years.

48. **Ms. Mhonta-Simelane** (Swaziland) said that a study on prostitution in Swaziland had been conducted by NGOs. The aim was to assist women who wished to leave prostitution and foster their economic empowerment in other ways.

49. **Ms. Gabr** asked whether the referral mechanism for victims of human trafficking would be included in future government action plans on trafficking. She stressed the importance of ensuring that officials received adequate training on the referral mechanism so as to be able to identify and provide assistance to victims.

50. **Ms. Mabuza** (Swaziland) said that those aspects would be taken into account in national programmes.

51. **Ms. Leinarte** asked whether Swaziland would consider amending legislation to decriminalize women prostitutes, while keeping prostitution itself illegal.

52. **Ms. Mabuza** (Swaziland) said that the idea could be discussed.

Articles 7 and 8

53. **Ms. Bareiro-Bobadilla**, while commending Swaziland on including the 30 per cent quota for political representation of women in its 2005 Constitution, noted that the quota had not been observed in the House of Assembly elections; in fact, the representation of women in the House of Assembly had decreased since 2008. Repeated efforts by NGOs to draw attention to the problem and encourage the Government to enforce legislation had been unsuccessful. She asked what the reasons for that decrease were and requested details of how electoral campaigns were conducted. She welcomed the fact that the quota had been met in the Senate, although the King had facilitated matters. Noting that the Queen Mother also had some power and influence, she wondered whether the law provided for a woman to succeed to the throne. She requested information on the composition of the current cabinet and other top positions in public administration. She encouraged greater efforts to increase women's participation at the highest level of the judiciary and diplomatic service.

54. **Ms. Mabuza** (Swaziland) said that the State party was committed to the participation of women in public and political life and recognized that the decrease in the number of women in the House of Assembly had changed the dynamic. It had been partly due to women traditionally being uninterested in participating in politics. The Government was aware of the need to find a means of implementing legislation to enforce the quota and to explore ways to stimulate the interest of women in political life. Action must be taken long before the election period through advocacy and awareness-raising among women of the importance of their political involvement.

55. The electoral process was open, starting at grass-roots level with local communities being allowed to nominate candidates. There were more women than men voters, so it was difficult to understand why women did not support each other, but it was a question of changing traditional perceptions of women's roles to encourage women to have faith in

electing other women. Slow but steady progress was being made in increasing the number of female judges and ambassadors and it was hoped that over time even more women would be enlisted.

56. **Ms. Gwebu** (Swaziland) said that cultural background played a significant role in the issue of succession to the throne and it was doubtful that there would be a queen in the near future, particularly given the number of males in the line of succession.

57. **Ms. Bareiro-Bobadilla** said that it was important to change women's traditional attitudes to participating in politics. She wondered if the King and Queen Mother could be encouraged to appoint even more women to the Senate. It was also vital for high-profile women to use their influence to promote other women.

Article 9

58. **Ms. Al-Jehani** asked whether, under the constitutional review, the nationality law would be amended to remove discriminatory provisions against children born out of wedlock, or not recognized by their fathers, who were currently denied the right to nationality. She also wished to know whether the law would be amended to grant nationality automatically to the children of Swazi women married to foreigners.

59. **Ms. Mabuza** (Swaziland) said that consideration was given to preventing discrimination against children born out of wedlock to foreign fathers. Children born to foreign fathers were not granted nationality automatically; an application had to be made and the father had to fulfil certain requirements such as renouncing his own nationality.

60. **Ms. Al-Jehani** reiterated her question of whether the nationality law would be amended to remove discriminatory provisions against children born out of wedlock. It was crucial that the procedures to obtain nationality should not undermine the dignity of women. She also reiterated her question of whether the nationality law would be amended to grant nationality to the children of Swazi women married to foreigners, as happened automatically in the case of the children of Swazi men married to foreign women. What mechanism was in place to enable those children to obtain nationality? She requested statistics on the number of Swazi women married to foreigners, so as to have a better idea of the scale of the problem.

The meeting rose at 1 p.m.